

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

601 Lexington Avenue

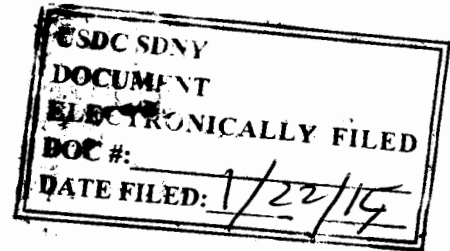
New York, New York 10022

(212) 446-4800

www.kirkland.com

Dale Cendali, P.C.
To Call Writer Directly:
(212) 446-4846

dale.cendali@kirkland.com

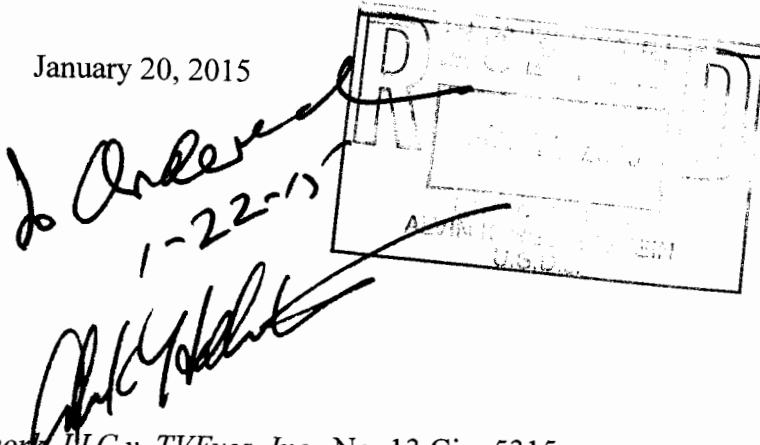


Facsimile:
(212) 446-4900

January 20, 2015

Via Hand Delivery

Hon. Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007



Re: *Fox News Network, LLC v. TVEyes, Inc.*, No. 13 Civ. 5315

Dear Judge Hellerstein:

We represent Plaintiff Fox News Network, LLC ("Fox News") in the above-referenced litigation. As indicated in Fox News' letter of December 15, 2014 and pursuant to Your Honor's Individual Rule 4(B)(i) and Paragraph 8(a) of the Stipulated Protective Order (Dkt. No. 16), we jointly write with counsel for Defendant TVEyes, Inc. ("TVEyes") to request permission to file certain pages and exhibits from the expert report of Dr. Beth Knobel, dated December 15, 2014, under seal and/or with redactions on the public record.

Based on the Court's ruling on this joint letter, the parties propose to file on the public record a revised redacted version of Dr. Knobel's report and file under seal any redacted materials no later than one week after the Court's ruling.

Fox News' Requested Redactions and Sealed Exhibits

As Fox News' businesses were the subject of extensive sections of Dr. Knobel's report, Fox News respectfully requests that the Court permit it to redact or file under seal confidential financial information and licensing terms with third parties. Making this information available to the public and, in particular, to Fox News' competitors would cause significant competitive harm to Fox News. *See Bergen Brunswick Corp. v. Ivax Corp.*, No. 97 Civ. 2003, 1998 WL 113976, at *3 (S.D.N.Y. Mar. 12, 1998) (recognizing that "[p]otential damage from the release of sensitive business information" is "a ground for denying access to court documents"); *see also Gelb v. Am. Tel. & Tel. Co.*, 813 F. Supp. 1022, 1035 (S.D.N.Y. 1993) (granting motion to seal exhibits pursuant to Rule 26(c) based on their potential to cause commercial harm). Accordingly, attached hereto as **Annex A** are the pages of Dr. Knobel's report that Fox News seeks to redact

KIRKLAND & ELLIS LLP

Hon. Alvin K. Hellerstein
August 21, 2014
Page 2

(with the proposed redactions indicated with red boxes). In addition, Fox News seeks to file under seal Exhibit Nos. 13, 23–25, and 33. Fox News also joins in the request of Executive Interviews, Ltd. (“Executive Interviews”) to the extent that it seeks to protect Fox News’ confidential business information.

Executive Interviews’ Requested Redactions and Sealed Exhibits

As Executive Interviews is a third-party to this action, it separately sets forth its requests to redact and to seal confidential material. Given that its business was discussed in Dr. Knobel’s report, Executive Interviews respectfully requests that the Court permit the redaction or filing under seal of its confidential business information, including financial information and confidential communications. Enabling Executive Interviews’ competitors to access this information by making it available on the public record would cause competitive injury to Executive Interviews. *See Bergen Brunswick Corp.*, 1998 WL 113976, at *3; *see also Gelb*, 813 F. Supp. at 1035. Accordingly, attached hereto as **Annex B** are the pages of Dr. Knobel’s report that Executive Interviews seeks to redact with the redactions indicated with red boxes. In addition, Executive Interviews seeks to file under seal Exhibit Nos. 27 and 41. Executive Interviews also joins in Fox News’ request to redact the portions of the summary judgment briefing designated in Annex A to the extent that such redactions pertain to Executive Interviews’ confidential business information.

TVEyes’ Requested Redactions and Sealed Exhibits

In her report, Dr. Knobel discloses the identity of several TVEyes’ clients, confidential communications between TVEyes and those clients, and confidential and highly sensitive contractual terms between TVEyes and its business partners. Because making this information available to the public and TVEyes’ competitors will put TVEyes at a significant competitive disadvantage, TVEyes respectfully requests that the Court permit it to redact and/or file this information under seal. *See Bergen Brunswick Corp.*, 1998 WL 113976, at *3. Accordingly, attached hereto as **Annex C** are the pages of Dr. Knobel’s report that TVEyes seeks to redact (with the proposed redactions indicated with red boxes). In addition, TVEyes seeks to file under seal Exhibit Nos. 19, 21, 26, 38 & 43 in their entirety.

* * *

KIRKLAND & ELLIS LLP

Hon. Alvin K. Hellerstein
August 21, 2014
Page 3

Sincerely,



Dale Cendali, P.C.

cc: Todd Anten, Esq.